

Chairman Kathleen White  
Commissioner Larry Soward  
Commissioner Martin Hubert

OLD BUSINESS AGENDA

Wednesday, October 4, 2006

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

9:30 A.M.  
12100 Park 35 Circle  
Room 201S, Bldg. E

Item continued from the September 6, 2006 agenda.

- Item 1. **Docket No. 2006-0860-UCR.** Consideration of whether to affirm, modify, or set aside the Emergency Rate Order issued by the Executive Director, without a hearing, on July 11, 2006 approving the application by **Bret Fenner, Court Appointed Receiver for William A. Swinney d.b.a. High Sierra Water System and P.K.C.C., L.P.**, Certificate of Convenience and Necessity No. 12855, for an emergency water rate increase. The order was issued pursuant to Sections 5.508 and 13.4133, Texas Water Code, and 30 Texas Administrative Code Section 35.202. The utility serves approximately 33 connections in **Burnet County**, Texas. The Emergency Rate Order authorized an Emergency Plant Repairs Surcharge of \$23.49 per month for 12 months starting July 18, 2006 and ending July 18, 2007. (Gabe Soto/Andy Lutringer)

Item continued to the end of the morning agenda. KW/MH; all agree.

Item continued to the 1:00 P.M. afternoon agenda by the General Counsel.

## AGENDA

Wednesday, October 4, 2006

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

9:30 A.M.

12100 Park 35 Circle

Room 201S, Bldg. E

#### **HEARING REQUESTS/REQUESTS FOR RECONSIDERATION**

Item 1. **Docket No. 2006-0881-MWD.** Consideration of the application by **City of Newark** for a major amendment of TPDES Permit No. WQ0011626001 to authorize an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 100,000 gallons per day to a daily average flow not to exceed 150,000 gallons per day, to remove monitoring requirements for total suspended solids and to relocate the discharge point. The application also includes a request for a temporary variance to the existing water quality standards for the Derrett Creek arm of the Eagle Mountain Reservoir. The draft permit authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 100,000 gallons per day. The draft permit retains the existing discharge location and the monitoring requirements for total suspended solids. The facility is located on the east bank of Derrett Creek immediately south of the Newark Beach Road Bridge, about 850 feet west of the intersection of Roger Road and Berke Street in **Wise County**, Texas. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (Alicia Lee, Julian Centeno, Jr.)

Item referred directly to SOAH by the General Counsel per request of the Applicant.

Item 2. **Docket No. 2006-0930-MWD.** Consideration of the application by **Guadalupe-Blanco River Authority** for a renewal of Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0011496001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 100,000 gallons per day. The wastewater treatment facility is located approximately 0.2 mile west of Farm-to-Market Road 306 and 3.5 miles southeast of the intersection of Farm-to-Market Road 484 and Farm-to-Market Road 306 in **Comal County**, Texas. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (Scott Shoemaker, Bijaya Chalise)

Deny all hearing requests and requests for reconsideration, adopt the Executive Director's Response to Comments and issue the permit renewal. KW/MH; all agree.

#### **AIR QUALITY ENFORCEMENT AGREED ORDERS**

Item 3. **Docket No. 2005-0556-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Michael Sargeant dba Sargeant's Wholesale**

**Biologicals in Bexar County;** TCEQ ID No. RN103179925; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Xavier Guerra, Jennifer Cook)

Approve the Agreed Order. KW/MH; all agree.

Item 4. **Docket No. 2005-0456-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Sabina Petrochemicals LLC in Jefferson County;** TCEQ ID No. RN100216977; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Kathleen C. Decker, Jennifer Cook)

Approve the Agreed Order. KW/MH; all agree.

Item 5. **Docket No. 2002-0898-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Belvan Corp. in Crocket County;** TCEQ ID Nos. CZ-0006-F and RN100214022; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Alfred Oloko, Jennifer Cook)

Approve the Agreed Order. KW/MH; all agree.

Item 6. **Docket No. 2006-0400-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **BP Products North America Inc. in Galveston County;** RN102535077; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Miriam Hall, Steven Lopez)

Approve the Agreed Order. KW/MH; all agree.

Item 7. **Docket No. 2006-0273-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **K-Solv, LP in Harris County;** RN100616721; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jessica Rhodes, Steven Lopez)

Approve the Agreed Order. KW/MH; all agree.

Item 8. **Docket No. 2006-0441-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Latino's Ready Mix Concrete Contractors, Inc. in Dallas County;** RN104352836; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Jorge Ibarra, P.E., Steven Lopez)

Approve the Agreed Order. KW/MH; all agree.

Item 9. **Docket No. 2005-1361-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Mine Service, Ltd. in Williamson County**; TCEQ ID No. RN104483441; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Shannon Strong, Jennifer Cook)

Item continued to the October 18, 2006 agenda.

Item 10. **Docket No. 2006-0449-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **StanTrans, Inc. in Galveston County**; RN100218767; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Harvey Wilson, David Van Soest)

Approve the Agreed Order. KW/MH; all agree.

Item 11. **Docket No. 2006-0674-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Duke Energy Field Services, LP in Hutchinson County**; RN100216613; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Suzanne Walrath, Steven Lopez)

Approve the Agreed Order. KW/MH; all agree.

Item 12. **Docket No. 2006-0439-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Western Gas Resources, Inc. in Upton County**; RN100223890; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Terry Murphy, Steven Lopez)

Approve the Agreed Order. KW/MH; all agree.

Item 13. **Docket No. 2005-1973-AIR-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **University of Texas Medical Branch at Galveston in Galveston County**; RN101921138; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (J. Craig Fleming, Steven Lopez)

Item remanded to the Executive Director. KW/LS; all agree

Item 14. **Docket No. 2006-0440-AIR-E.** Consideration of an Agreed Order assessing administrative penalties against **Gentex Power Corporation in Bastrop County**; RN100723915; for air quality violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Libby Hogue, David Van Soest)

Approve the Agreed Order. KW/MH; all agree.

## DRY CLEANER ENFORCEMENT AGREED ORDERS

Item 15. **Docket No. 2006-0827-DCL-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Khushi Services Inc. dba In Style Cleaners and Alterations** in **Travis County**; RN104968441; for a dry cleaning registration violation pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Rajesh Acharya, Steven Lopez)

Approve the Agreed Order. KW/MH; all agree.

Item 16. **Docket No. 2006-0633-DCL-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Peter Ritenour dba Super Cleaners Sweeny** in **Brazoria County**; RN103956025; for a dry cleaner registration violation pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Harvey Wilson, David Van Soest)

Approve the Agreed Order. KW/MH; all agree.

Item 17. **Docket No. 2006-0666-DCL-E.** Consideration of an Agreed Order assessing administrative penalties against **Victoria's Cleaners and Alterations Inc.** in **Travis County**; RN100597541; for a dry cleaner registration violation pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Samuel Short, Steven Lopez)

Approve the Agreed Order. KW/MH; all agree.

Item 18. **Docket No. 2006-0619-DCL-E.** Consideration of an Agreed Order assessing administrative penalties against **Tin Trung Tran and Tuyet Thi Pham dba T P Cleaners** in **Brazoria County**; RN104957097; for a dry cleaner registration violation pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Libby Hogue, David Van Soest)

Approve the Agreed Order. KW/MH; all agree.

Item 19. **Docket No. 2006-0808-DCL-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Kim Lerche dba The Looking Glass** in **Bastrop County**; RN104963921; for a dry cleaning registration violation pursuant to Tex. Health & Safety Code ch. 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Harvey Wilson, David Van Soest)

Approve the Agreed Order. KW/MH; all agree.

Item 20. **Docket No. 2006-0996-DCL-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **North Dallas Swiss Cleaners, Ltd.** in **Dallas County**; RN104990338; for a dry cleaner registration violation pursuant to Tex. Health &

Safety Code ch. 374, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality. (Suzanne Walrath, Steven Lopez)

Approve the Agreed Order. KW/MH; all agree.

### **EDWARDS AQUIFER ENFORCEMENT AGREED ORDER**

Item 21. **Docket No. 2006-0773-EAQ-E.** Consideration of an Agreed Order assessing administrative penalties against **R.M. Dealer-BJM, L.L.C. dba Red McCombs Toyota in Bexar County;** RN104945928; for Edwards Aquifer violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Trina Grieco, David Van Soest)

Approve the Agreed Order. KW/MH; all agree.

### **FIELD CITATIONS**

Item 22. **Docket No. 2006-0895-MSW-E.** Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Ruben D. Serna in Jim Hogg County;** RN104960182; for municipal solid waste licensing violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Melissa Keller, David Van Soest)

Item remanded to the Executive Director.

Item 23. **Docket No. 2006-0637-PST-E.** Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **TR's Market, Inc. dba In & Out in Denton County;** RN101435006; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Melissa Keller, David Van Soest)

Approve the Field Citation. KW/MH; all agree.

Item 24. **Docket No. 2006-1241-PST-E.** Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Food Mart, Inc. dba Neighborhood Chevron in Dallas County;** RN102322989; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Melissa Keller, Steven Lopez)

Approve the Field Citation. KW/MH; all agree.

Item 25. **Docket No. 2006-1242-WQ-E.** Consideration of a Field Citation assessing administrative penalties and requiring certain actions of **Southwestern Motor Transport, Inc. in Cameron County;** RN102819703; for stormwater violations pursuant to Tex. Water Code chs. 7 and 26

and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Melissa Keller, Steven Lopez)

Approve the Field Citation. KW/MH; all agree.

#### **INDUSTRIAL HAZARDOUS WASTE ENFORCEMENT AGREED ORDER**

Item 26. **Docket No. 2006-0030-IHW-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Gulf Bayport Chemicals LP in Harris County;** RN100219096; for industrial & hazardous waste violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Michael Meyer, Steven Lopez)

Approve the Agreed Order. KW/MH; all agree.

#### **INDUSTRIAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS**

Item 27. **Docket No. 2005-1131-IWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Hydro Conduit of Texas, LP in Denton County;** RN104578224; for water quality violations pursuant to Tex. Water Code chs. 5, 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Brent Hurta, David Van Soest)

Approve the Agreed Order. KW/MH; all agree.

Item 28. **Docket No. 2006-0549-IWD-E.** Consideration of an Agreed Order assessing administrative penalties against **Valero Refining-Texas, L.P. in Galveston County;** RN100238385; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Audra L. Ruble, Steven Lopez)

Approve the Agreed Order. KW/MH; all agree.

#### **LICENSED IRRIGATORS ENFORCEMENT DEFAULT ORDER**

Item 29. **Docket No. 2005-0730-LII-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **John Balstad in Dallas County;** TCEQ ID No. RN103660353; for landscape irrigator installer violations pursuant to Tex. Water Code chs. 7 and 37 and the rules of the Texas Commission on Environmental Quality. (Lena Roberts, Jennifer Cook)

Approve the Default Order. KW/MH; all agree.

#### **MULTI-MEDIA MATTER ENFORCEMENT AGREED ORDER**

Item 30. **Docket No. 2004-1808-MLM-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **K. J. Plunkett Sand & Base, Inc, in Montgomery**

**County**; TCEQ ID No. RN102922382; for air and municipal solid waste violations pursuant to Tex. Health & Safety Code chs. 361 and 382, Tex. Water Code ch. 7, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Mark Curnutt, Jennifer Cook)

Approve the Agreed Order. KW/MH; all agree.

#### **MUNICIPAL SOLID WASTE ENFORCEMENT DEFAULT ORDER**

Item 31. **Docket No. 2005-0040-MSW-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Sentinel Waste, LLC in Travis County**; TCEQ ID No. RN104009501; for municipal solid waste violations pursuant to Tex. Water Code ch. 7, Tex. Health & Safety Code ch. 361, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Shawn Slack, Jennifer Cook)

Approve the Default Order. KW/MH; all agree.

#### **MUNICIPAL WASTE DISCHARGE ENFORCEMENT AGREED ORDERS**

Item 32. **Docket No. 2006-0550-MWD-E.** Consideration of an Agreed Order assessing administrative penalties against **El Dorado Utility District in Harris County**; RN101607299; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Brent Hurta, Steven Lopez)

Approve the Agreed Order. KW/MH; all agree.

Item 33. **Docket No. 2005-1116-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Kaufman County Fresh Water Supply District No. 1A in Kaufman County**; RN102334638; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Laurie Eaves, David Van Soest)

Approve the Agreed Order. KW/MH; all agree.

Item 34. **Docket No. 2005-0501-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **Town of Windom in Fannin County**; Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10666001, RN103014619; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Merrilee Hupp, David Van Soest)

Approve the Agreed Order. KW/MH; all agree.

Item 35. **Docket No. 2006-0479-MWD-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Pinehurst in Orange County**; RN100528918; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the



rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Ruben Soto, David Van Soest)

Approve the Agreed Order. KW/MH; all agree.

### **PETROLEUM STORAGE TANK ENFORCEMENT AGREED ORDERS**

Item 36. **Docket No. 2004-1776-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Hector Silva dba Chaparral Mini Mart and Petra Silva dba Chaparral Mini Mart in Frio County**; TCEQ ID No. RN101737773; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Kari L. Gilbreth, Jennifer Cook)

Approve the Agreed Order. KW/MH; all agree.

Item 37. **Docket No. 2006-0014-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Milam Investment, Inc. dba Dandy's in Travis County**; RN101635712; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Rajesh Acharya, Steven Lopez)

Approve the Agreed Order. KW/MH; all agree.

Item 38. **Docket No. 2006-0163-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Lucky Lady Oil Company in Cooke and Dallas Counties**; RN104809553, RN103939690; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Marlin Bullard, David Van Soest)

Approve the Agreed Order. KW/MH; all agree.

Item 39. **Docket No. 2005-1958-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Kauser Energy Inc. dba Kaiser Food Mart 3 in Dallas County**; RN102653037; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Deana Holland, Steven Lopez)

Approve the Agreed Order. KW/MH; all agree.

Item 40. **Docket No. 2006-0343-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Orlando Cavazos dba Bryan Park Exxon in Hidalgo County**; RN101678605; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality,

including specifically 30 Texas Administrative Code ch. 60. (Thomas Greimel, David Van Soest)

Approve the Agreed Order. KW/MH; all agree.

Item 41. **Docket No. 2005-2033-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Dinesh Patel dba Benbrook Corner Store in Tarrant County**; RN101537983; for petroleum storage tank violations pursuant to Tex. Health & Safety Code ch. 382, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Yuliya Dunaway, Steven Lopez)

Approve the Agreed Order. KW/MH; all agree.

Item 42. **Docket No. 2006-0358-PST-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Shobhana Patel dba Bear Food Mart in McLennan County**; RN102447844; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Rajesh Acharya, David Van Soest)

Approve the Agreed Order. KW/MH; all agree.

Item 43. **Docket No. 2004-0806-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Sam Lakhani dba SLR Grocery in Travis County**; TCEQ ID No. RN101697639; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Amie Richardson, Jennifer Cook)

Approve the Agreed Order. KW/MH; all agree.

Item 44. **Docket No. 2005-0141-PST-E.** Consideration of an Agreed Order assessing administrative penalties against **Hung Tran dba Corner Stop Food Mart in Brazoria County**; TCEQ ID Nos. 35272 and RN101446664; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Jacquelyn Boutwell, Jennifer Cook)

Approve the Agreed Order. KW/MH; all agree.

#### **PETROLEUM STORAGE TANK ENFORCEMENT DEFAULT ORDERS**

Item 45. **Docket No. 2005-1550-PST-E.** Consideration of a Default Order assessing administrative penalties against **Trinh Le dba Fas Stop Food Mart in Bexar County**; TCEQ ID No. RN102269131; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Deanna Sigman, Jennifer Cook)

Item remanded to the Executive Director. KW/MH; all agree.

Item 46. **Docket No. 2005-1679-PST-E.** Consideration of a Default Order assessing administrative penalties and requiring certain actions of **Brownsville Val-Marts, L.L.C. dba Pronto 9** in **Cameron County**; TCEQ ID No. RN102465838; for petroleum storage tank violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Robert R. Mosley, Jennifer Cook)

Approve the Default Order. KW/MH; all agree.

#### **PUBLIC WATER SYSTEM ENFORCEMENT AGREED ORDERS**

Item 47. **Docket No. 2005-0752-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Mardoche Abdelhak dba Big Trees Trailer City** in **Bexar County**; TCEQ ID Nos. 0150131 and RN101652048; for public drinking water violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Xavier Guerra, Jennifer Cook)

Approve the Agreed Order. KW/MH; all agree.

Item 48. **Docket No. 2006-0247-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Hilltop Hosts, Inc. dba Mountain View Lodge** in **Hays County**; RN101651479; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Epifanio Villarreal, Steven Lopez)

Approve the Agreed Order. KW/MH; all agree.

Item 49. **Docket No. 2005-0821-PWS-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Santa Rosa** in **Cameron County**; RN101242170; for drinking water quality violations pursuant to Tex. Health & Safety Code ch. 341 and the rules of the Texas Commission on Environmental Quality. (Carolyn V. Lind, Steven Lopez)

Approve the Agreed Order. KW/MH; all agree.

#### **SLUDGE ENFORCEMENT AGREED ORDER**

Item 50. **Docket No. 2006-0604-SLG-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Willie De Hoyos dba WD Septic** in **Wilson County**; RN103150082; for water quality violations pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Brian Lehmkuhle, David Van Soest)

Approve the Agreed Order. KW/MH; all agree.

Item 51. **Docket No. 2004-0794-SLG-E.** Consideration of an Agreed Order assessing administrative penalties against **Leta Bess Pate** in **Bell County**; RN103155560; for sewage sludge violations

pursuant to Tex. Health & Safety Code ch. 361, Tex. Water Code chs. 7 and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Michael Limos, David Van Soest)

Approve the Agreed Order. KW/MH; all agree.

### **WATER QUALITY ENFORCEMENT AGREED ORDERS**

Item 52. **Docket No. 2005-1641-WQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Sonntag Materials, Inc. in Hood County**; TCEQ ID No. RN104739123; for water quality violations pursuant to Tex. Water Code chs. 5, 7, and 26, and the rules of the Texas Commission on Environmental Quality, including specifically 30 Tex. Admin. Code ch. 60. (Shawn A. Slack, Jennifer Cook)

Approve the Agreed Order. KW/MH; all agree.

Item 53. **Docket No. 2006-0070-WQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of the **City of Weatherford in Parker County**; RN101614055; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Pamela Campbell, David Van Soest)

Approve the Agreed Order. KW/MH; all agree.

Item 54. **Docket No. 2006-0698-WQ-E.** Consideration of an Agreed Order assessing administrative penalties against **Longhorn Excavators, Inc. in Nueces County**; RN104958699; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Carolyn V. Lind, David Van Soest)

Approve the Agreed Order. KW/MH; all agree.

Item 55. **Docket No. 2006-0360-WQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Central Transport International, Inc. in Webb County**; RN103898995; for water quality violations pursuant to Tex. Water Code chs. 5, 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Brent Hurta, David Van Soest)

Approve the Agreed Order. KW/MH; all agree.

Item 56. **Docket No. 2006-0545-WQ-E.** Consideration of an Agreed Order assessing administrative penalties and requiring certain actions of **Robin Brown dba Brazos Valley Homes in Parker and Tarrant Counties**; RN104942248; for water quality violations pursuant to Tex. Water Code chs. 7 and 26 and the rules of the Texas Commission on Environmental Quality, including specifically 30 Texas Administrative Code ch. 60. (Cari-Michel La Caille, Steven Lopez)

Approve the Agreed Order. KW/MH; all agree.

## EMERGENCY ORDERS

Item 57. **Docket No. 2006-0282-UCR-E.** Consideration of whether to Modify, Affirm, or Set Aside an Emergency Order issued on August 11, 2006 by the Executive Director of the Texas Commission on Environmental Quality pursuant to Tex. Water Code §§ 5.501, 5.507, and 13.4132 to address the abandonment of a retail public utility (Utility) by **Vergil Martin dba H & J Utilities aka Matco Utilities in Harris County**; CCN No. 12472; to ensure continued operation of the Utility; and to provide continuous and adequate service to the customers. The Emergency Order appointed Texas American Water Co. as temporary manager of the Utility. (Mark Curnutt)

Affirm the ED's Emergency Order with modifications to Findings of Fact Nos. 1 and 6 and specifying the correct date when the ED mailed notice of the agenda hearing. KW/LS; all agree.

Item 58. **TCEQ Docket No. 2006-1091-WR.** Consideration of the application of the **Lower Colorado River Authority (LCRA)** for emergency suspension of a Special Condition in Water Right Permit No. 5715 under Texas Water Code Sections 5.506 and 11.148 or Section 11.139. LCRA's Permit No. 5715 allows it to divert water from the Colorado River into Lometa Reservoir, and then use that water for municipal and domestic water supply in **Lampasas, Burnet, Mills, and San Saba Counties**. Special Condition No. 5(b) of Permit No. 5715 establishes minimum instream flow requirements below which LCRA is not allowed to divert water. LCRA is requesting that the Special Condition be suspended to allow LCRA to divert water for 120 days so the Lometa Reservoir may be filled. LCRA states that it needs the requested emergency authorization because it is running out of water in the reservoir, a condition which presents an imminent threat to the public health, safety and welfare, and that it has no feasible, practicable alternatives to this emergency authorization. (Robin Smith, Todd Chenoweth)

Item continued to the October 18, 2006 agenda. KW/MH; all agree.

## RULE MATTERS

Item 59. **Docket No. 2006-0167-RUL.** Consideration of the adoption of amended Sections 101.302, 101.306, 101.372, 101.373, 101.376, and 101.378; the repeal of Section 101.338; and new Sections 101.305, 101.338, 101.339, and 101.375 of **30 TAC Chapter 101**, General Air Quality Rules, and corresponding revisions to the state implementation plan.

The rules address deficiencies in the commission's discrete emission reduction credit program as identified by the United States Environmental Protection Agency (EPA) in the October 5, 2005, edition of the Federal Register (70 FR 58154). Changes include elimination of discrete emission reduction credits generated from shutdowns; EPA approval for transactions for emission reductions generated in another state or country, or from one nonattainment area to another, or from an attainment area to a nonattainment area; and formatting changes. The rules also implement revisions to Texas Health and Safety Code, Section 382.0172(c), as required by Senate Bill 784, 79th Texas Legislature, 2005, Regular Session, which allows greater flexibility in the generation of credits for emission reductions outside the United States. The proposed

rules were published in the April 28, 2006, issue of the *Texas Register* (31 TexReg 3492). (Beecher Cameron, Dan Long) (Rule Project No. 2005-054-101-PR)

Approve the adoption of amended sections to 30 TAC Chapter 101, and corresponding revisions to the state implementation plan. KW/LS; all agree.

Item 60. **Docket No. 2005-0340-RUL.** Consideration of the adoption of new Section 295.17 of **30 TAC Chapter 295**, Water Rights, Procedural; new Section 297.2 of **30 TAC Chapter 297**, Water Rights, Substantive; new Sections 303.18, 303.40, and 303.74 - 303.93 and amended Sections 303.1, 303.2, 303.21 - 303.23, 303.53, 303.55, and 303.72 of **30 TAC Chapter 303**, Operation of the Rio Grande.

The adoption implements Senate Bill 1902 and House Bill 2250, 78th Legislature, 2003, Regular Session, which added Section 11.3271 to the Texas Water Code (TWC). To implement TWC, Section 11.3271, this rulemaking defines situations of imminent threat to public health and safety and the environment, including terrorism response; provides for the method and procedures by which permits will be issued; and provides for the methods that the Rio Grande Watermaster will account for any discharge, delivery, conveyance, storage, diversion, or associated loss of water conveyed down the bed and banks of the Rio Grande. Additionally, this adoption establishes procedures for the Watermaster to maintain a central repository for all instruments that the commission requires to be filed in connection with water rights relating to the water division of the Rio Grande and sets the fees charged to maintain such instruments. The proposed rules were published in the April 28, 2006, issue of the *Texas Register* (31 TexReg 3502). (Tracy Callen, Herman Settemeyer, Robin Smith) (Rule Project No. 2004-014-295-CE)

Approve the adoption of new and amended sections to 30 TAC Chapter 295, 30 TAC Chapter 297, and 30 TAC Chapter 303. KW/MH; all agree.

Item 61. **Docket No. 2005-2047-RUL.** Consideration of the adoption of amended Sections 293.1, 293.11, 293.12, 293.20, 293.22, 293.23, 293.32, 293.41, 293.44, 293.51, 293.69, and 293.111 - 293.113 of **30 TAC Chapter 293**, Water Districts. Consideration of the withdrawal of the proposal of Sections 293.54, 293.201, and 293.202.

The adoption implements House Bills 828, 1208, 1644, 1673, and 1763 and Senate Bill 693, 79th Legislature, 2005, Regular Session. The adoption provides certain districts greater flexibility in contracting and in funding of certificate of convenience and necessity costs; allows a water supply corporation in converting to a special utility district to request certain powers to be considered and granted by the commission; and modifies notice, hearing, rulemaking, and permitting procedures for groundwater conservation districts. The proposed rules were published in the April 14, 2006, issue of the *Texas Register* (31 TexReg 3199). (Randy Nelson, Todd Galiga) (Rule Project No. 2005-058-293-PR)

Approve the adoption of amended sections 293.1, 293.11, 293.12, 293.20, 293.22, 293.23, 293.32, 293.41, 293.44, 293.51, 293.69, and 293.111 - 293.113 of 30 TAC Chapter 293; and the withdrawal of the proposal of Sections 293.54, 293.201, and 293.202. KW/LS; all agree.

## EXECUTIVE SESSION

Item 62. **Docket No. 2006-0001-EXE.** The Commission will meet in closed session to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the Commission's Executive Director, as permitted by Section 551.074 of the Texas Open Meetings Act, Chapter 551 of the Government Code. The Commission may also meet in open session to take action on this matter as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

No action taken.

Item 63. **Docket No. 2006-0002-EXE.** The Commission will conduct a closed meeting to receive legal advice and will discuss pending or contemplated litigation, settlement offers, and/or the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of specific Commission employees, as permitted by Sections 551.071 and 551.074, the Open Meetings Act, codified as Chapter 551 of the Government Code. The Commission may also meet in open session to take action on a legal or personnel matters considered in the closed meeting as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

No action taken.

Item 64. **Docket No. 2006-0003-EXE.** The Commission will conduct a closed session to discuss their duties, roles, and responsibilities as Commissioners of the TCEQ pursuant to Section 551.074 of the Open Meetings Act, Codified as Chapter 551 of the Government Code. The Commission may also meet in open session to take action on this matter as required by Section 551.102 of the Texas Open Meetings Act, Chapter 551 of the Government Code.

No action taken.

**(PERSONS WITH DISABILITIES WHO PLAN TO ATTEND THE TCEQ AGENDA AND WHO MAY NEED AUXILIARY AIDS OR SERVICES SUCH AS INTERPRETERS FOR PERSONS WHO ARE DEAF OR HEARING IMPAIRED, READERS, LARGE PRINT, OR BRAILLE ARE REQUESTED TO CONTACT OFFICE OF THE CHIEF CLERK AT (512) 239-3300 AT LEAST TWO (2) WORK DAYS PRIOR TO THE AGENDA, SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE. PERSONS WHO DESIRE THE ASSISTANCE OF AN INTERPRETER IN CONJUNCTION WITH THEIR ORAL PRESENTATION AT THIS TCEQ AGENDA ARE REQUESTED TO CONTACT THE OFFICE OF THE CHIEF CLERK AT (512) 239-3300 AT LEAST FIVE (5) WORK DAYS PRIOR TO THE AGENDA SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE.)**

**REGISTRATION FOR AGENDA STARTS AT 8:45 A.M. UNTIL 9:30 A.M. PLEASE REGISTER BETWEEN THESE TIMES. LATE REGISTRATION COULD RESULT IN YOUR MISSING THE OPPORTUNITY TO COMMENT ON YOUR ITEM.**

**THE PUBLIC CAN VIEW LIVE AND ARCHIVED TCEQ MEETINGS ON THE INTERNET AT NO COST, AT: <http://www.texasadmin.com/cgi-bin/tnrcc.cgi>**

OLD BUSINESS AGENDA

Wednesday, October 4, 2006

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

1:00 P.M.

12100 Park 35 Circle  
Room 201S, Bldg. E

Item continued from the September 6, 2006 agenda.

- Item 1. **Docket No. 2006-0569-MWD.** Consideration of the application by **Northwest Harris County Municipal Utility District No. 5** for a new permit, proposed Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0011824002, to authorize the discharge of treated domestic wastewater at a daily average flow not to exceed 0.400 million gallons per day. The facility will be located 3,000 feet east and 1,300 feet south of the intersection of Telge Road and Grant Road in **Harris County**, Texas. The Commission will also consider requests for hearing or reconsideration, related responses and replies, public comment, and the Executive Director's Response to Comments. (Claudia Russell, Amewusika Clara Dake)

Item remanded to the Executive Director.

Item continued from the September 6, 2006 agenda.

- Item 2. **TCEQ Docket No. 2003-0809-PST-E; SOAH Docket No. 582-06-0335.** Consideration of the Administrative Law Judge's Proposal for Decision and Default Order assessing administrative penalties and requiring certain actions of **M & C Enterprises, Inc. dba Handi Plus 25** in **Harris County**, Texas TCEQ PST Registration No. 54921; regarding petroleum storage tank violations pursuant to Texas Water Code §§ 5.702 and 26.352; 30 Tex. Admin. Code §§ 37.815 (a) and (b) and 334.22(a); and Tex. Water Code ch. 7. (Courtney St. Julian)

Adopt the ALJ's Order as modified by the Executive Director's exceptions. KW/MH; all agree.

Item continued from the September 6, 2006 agenda.

- Item 3. **TCEQ Docket No. 2003-0029-MSW-E; SOAH Docket No. 582-05-5033.** Consideration of the Administrative Law Judge's Proposal for Decision and Order assessing administrative penalties and requiring certain actions of **Murrill Len Baxley dba Texas Defensive Shooting Academy** in **Dallas County**, Texas; regarding municipal solid waste violations pursuant to Tex. Health & Safety Code Ann. § 361.112(a), 30 Tex. Admin. Code § 328.60(a), and Tex. Water Code ch. 7. (Shana L. Horton)

Adopt the ALJ's Order as modified by the Executive Director's five suggested corrections found on pg. 6 of his Exceptions. KW/MH; all agree.



Item continued from the September 6, 2006 and September 20, 2006 agendas.

- Item 4. **TCEQ Docket No. 2005-1592-UCR; SOAH Docket No. 582-06-0424.** Consideration of the Administrative Law Judge's Proposal for Decision regarding **Old Tamina WSC's** request for a cease and desist Order against the City of Shenandoah, Texas. The alleged violation is in **Montgomery County**, Texas. The Commission will also consider timely public comments, the petition, related filings, exceptions and replies. (David J. Klein, Brian Dickey)

Adopt the ALJ's revised Order submitted on July 31, 2006. KW/LS; all agree.

Item continued from the September 6, 2006 and October 4, 2006 A.M. agenda.

- Item 5. **Docket No. 2006-0860-UCR.** Consideration of whether to affirm, modify, or set aside the Emergency Rate Order issued by the Executive Director, without a hearing, on July 11, 2006 approving the application by **Bret Fenner, Court Appointed Receiver for William A. Swinney d.b.a. High Sierra Water System and P.K.C.C., L.P.**, Certificate of Convenience and Necessity No. 12855, for an emergency water rate increase. The order was issued pursuant to Sections 5.508 and 13.4133, Texas Water Code, and 30 Texas Administrative Code Section 35.202. The utility serves approximately 33 connections in **Burnet County**, Texas. The Emergency Rate Order authorized an Emergency Plant Repairs Surcharge of \$23.49 per month for 12 months starting July 18, 2006 and ending July 18, 2007. (Gabe Soto/Andy Lutringer)

Affirm and modify the ED's Emergency Order to implement the parties agreement. The modifications include the extension of the term of the order to fifteen months, the modification of Ordering Provision No. 2 to require the Receiver to seek three bids for emergency plant repair work, the addition of an ordering provision to refer the matter to SOAH for a determination of the final rate, and to specify a hearing duration of three months. The Commission also acknowledged the parties' separate agreement regarding the future of the Utility. KW/MH; all agree.

AGENDA

Wednesday, October 4, 2006

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

1:00 P.M.

12100 Park 35 Circle

Room 201S, Bldg. E

- Item 1. **TCEQ Docket No. 2005-0849-PST-E; SOAH Docket No. 582-06-2111.** Consideration of the Administrative Law Judge's Proposal for Decision and Default Order assessing administrative penalties and requiring certain actions of **Sunshine Stores, Inc.** in **Hardin County, Texas**; TCEQ ID No. RN102442209; Tex. Water Code chs. 7 and 26, Tex. Health & Safety Code ch. 382, and the rules of the Texas Commission on Environmental Quality, including specifically Tex. Admin. Code ch. 60. (Kari L. Gilbreth)

Adopt the ALJ's Order as modified by the Executive Director's second set of exceptions filed on October 2, 2006. KW/MH; all agree.

**(PERSONS WITH DISABILITIES WHO PLAN TO ATTEND THE TCEQ AGENDA AND WHO MAY NEED AUXILIARY AIDS OR SERVICES SUCH AS INTERPRETERS FOR PERSONS WHO ARE DEAF OR HEARING IMPAIRED, READERS, LARGE PRINT, OR BRAILLE ARE REQUESTED TO CONTACT OFFICE OF THE CHIEF CLERK AT (512) 239-3300 AT LEAST TWO (2) WORK DAYS PRIOR TO THE AGENDA, SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE. PERSONS WHO DESIRE THE ASSISTANCE OF AN INTERPRETER IN CONJUNCTION WITH THEIR ORAL PRESENTATION AT THIS TCEQ AGENDA ARE REQUESTED TO CONTACT THE OFFICE OF THE CHIEF CLERK AT (512) 239-3300 AT LEAST FIVE (5) WORK DAYS PRIOR TO THE AGENDA SO THAT APPROPRIATE ARRANGEMENTS CAN BE MADE.)**

**REGISTRATION FOR AGENDA STARTS AT 12:30 P.M. UNTIL 1:00 P.M. PLEASE REGISTER BETWEEN THESE TIMES. LATE REGISTRATION COULD RESULT IN YOUR MISSING THE OPPORTUNITY TO COMMENT ON YOUR ITEM.**

**THE PUBLIC CAN VIEW LIVE AND ARCHIVED TCEQ MEETINGS ON THE INTERNET AT NO COST, AT: <http://www.texasadmin.com/cgi-bin/tnrcc.cgi>**

/s/ Tracy Gross  
Assistant General Counsel,  
Tracy Gross

11-29-2006  
Date